

Part 4

Cigarettes and Tobacco Products

59-14-401 Refund of taxes paid -- Exemption for exported cigarettes and tobacco products.

- (1)
- (a) When any cigarette or tobacco product taxed under this chapter is sold and shipped to a regular dealer in those articles in another state, the seller in this state shall be entitled to a refund of the actual amount of the taxes paid, upon condition that the seller in this state:
 - (i) is a licensed dealer;
 - (ii) signs an affidavit that the cigarette or tobacco product was so sold and shipped;
 - (iii) furnishes from the purchaser a written acknowledgment that the purchaser has received:
 - (A) the cigarette or tobacco product; and
 - (B) the amount of any stamps for which a refund is requested;
 - (iv) reports the name and address of the purchaser; and
 - (v) reports the name of the manufacturer of the cigarette, as defined under Section 59-22-202, reported under Section 59-14-407 if the cigarette is manufactured by a manufacturer required to place funds into escrow under Section 59-22-203.
 - (b) The taxes shall be refunded in the manner provided in Subsection 59-14-206(2) for unused stamps.
- (2) Wholesalers or distributors in this state who export taxable cigarettes and tobacco products to a regular dealer in another state shall be exempt from the payment of any tax upon the sale of the articles upon furnishing such proof of the sale and exportation as the commission may require.

Amended by Chapter 229, 2000 General Session

59-14-402 Reports of imports and exports of taxable cigarettes and tobacco products.

Every common carrier hauling, transporting, or shipping into or out of the state any taxable cigarettes or tobacco products from or to any other state or foreign country shall, when required by the commission, report in writing to the commission all those shipments or deliveries on blanks furnished by the commission. The report shall give the date, to whom the products were consigned and delivered, the quantity as shown by the bill of lading, and any other information the commission may require. The commission is expressly authorized to exact this information from common carriers.

Renumbered and Amended by Chapter 2, 1987 General Session

59-14-403 Duplicate invoice requirements -- Failure to comply -- Penalties.

All persons dealing in taxable cigarettes or tobacco products, who purchase or receive these commodities from outside the state, whether the product is delivered through a wholesaler or distributor in this state, or by drop shipment or otherwise, shall mail or deliver a duplicate invoice of all those purchases or receipts to the commission within 10 days after receipt of the commodities if requested by the commission. Failure to furnish duplicate invoices or receipts as requested is subject to the penalties provided under Section 59-1-401.

Renumbered and Amended by Chapter 2, 1987 General Session

Renumbered and Amended by Chapter 3, 1987 General Session

59-14-404 Administration of chapter by commission.

The commission shall administer and enforce the taxes imposed by this chapter and may:

- (1) enter upon the premises of any taxpayer and examine or cause to be examined by any agent or representative designated by it for that purpose, any books, papers, records, or memoranda bearing upon the taxes; and
- (2) secure any other information directly or indirectly concerned in the enforcement of this chapter.

Renumbered and Amended by Chapter 2, 1987 General Session

59-14-406 Assistance for commission.

The commission may call to its aid the attorney general, any city, county, or district attorney, or any peace officer to enforce any tax laws which it administers.

Amended by Chapter 38, 1993 General Session

59-14-407 Reporting of manufacturer name.

- (1) As used in this section:
 - (a) "Cigarette" has the same meaning as defined in Section 59-22-202.
 - (b) "Tobacco product manufacturer" has the same meaning as defined in Section 59-22-202.
- (2) Any manufacturer, distributor, wholesaler, or retail dealer who under Section 59-14-205 affixes a stamp to an individual package or container of cigarettes manufactured or sold by a tobacco product manufacturer required to place funds into escrow under Section 59-22-203 shall report quarterly to the commission:
 - (a) the quantity of cigarettes in the package or container; and
 - (b) the name of the manufacturer of the cigarettes.
- (3) Any manufacturer, distributor, wholesaler, retail dealer, or other person who is required to pay the tax levied under Part 3, Tobacco Products, on a tobacco product defined as a cigarette under Section 59-22-202 and manufactured or sold by a tobacco product manufacturer required to place funds into escrow under Section 59-22-203 shall report quarterly to the commission:
 - (a) the quantity of cigarettes upon which the tax is levied; and
 - (b) the name of the manufacturer of each cigarette.
- (4) The reports under Subsections (2) and (3) shall be made no later than quarterly on or before the last day of the month following each calendar quarterly period pursuant to rules established by the commission in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (5) A person required to file a report under this section who fails to timely file the report, or who provides false or misleading information on, or in relation to, the report:
 - (a) is guilty of a class B misdemeanor; and
 - (b) is subject to:
 - (i) revocation or suspension of a license under Part 2, Cigarettes, and Part 3, Tobacco Products; and
 - (ii) a civil penalty, imposed by the commission, in an amount that does not exceed the greater of:
 - (A) 500% of the retail value of the cigarettes and tobacco products for which an accurate report was not filed; or
 - (B) \$5,000.

Amended by Chapter 164, 2011 General Session

59-14-409 Definitions -- Credit or refund for tax paid on cigarette or tobacco product that is destroyed or returned to the manufacturer -- Interest -- Rulemaking authority.

- (1) As used in this section, "licensed person" means a person:
 - (a) licensed by the commission in accordance with Section 59-14-202; and
 - (b) that is a:
 - (i) distributor;
 - (ii) jobber;
 - (iii) manufacturer;
 - (iv) retailer;
 - (v) wholesaler; or
 - (vi) a person similar to a person described in Subsections (1)(b)(i) through (v) as determined by the commission by rule.
- (2) A licensed person may apply to the commission for a credit or refund as provided in Subsection (3) if:
 - (a) on or after July 1, 2005, the following are removed from retail sale or from storage:
 - (i) a cigarette; or
 - (ii) a tobacco product;
 - (b) before a cigarette or tobacco product is removed from retail sale or from storage in accordance with Subsection (2)(a), the licensed person remits a tax:
 - (i) to the commission;
 - (ii) on the:
 - (A) cigarette; or
 - (B) tobacco product; and
 - (iii) in accordance with:
 - (A) Part 2, Cigarettes; or
 - (B) Part 3, Tobacco Products; and
 - (c) the licensed person verifies to the commission that the cigarette or tobacco product described in Subsection (2)(a) has been:
 - (i) returned to the manufacturer of the cigarette or tobacco product; or
 - (ii) destroyed.
- (3) The amount of the credit or refund described in Subsection (2) is equal to:
 - (a) for a cigarette removed from retail sale or from storage, the amount of tax the licensed person paid on the cigarette in accordance with Part 2, Cigarettes; or
 - (b) for a tobacco product removed from retail sale or from storage, the amount of tax the licensed person paid on the tobacco product in accordance with Part 3, Tobacco Products.
- (4)
 - (a) The commission shall grant a credit or refund under this section if the commission determines that a licensed person meets the requirements of Subsection (2).
 - (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules establishing procedures and requirements for a licensed person to verify to the commission that a cigarette or tobacco product described in Subsection (2)(a) has been:
 - (i) returned to the manufacturer of the cigarette or tobacco product; or
 - (ii) destroyed.
- (5)

- (a) If the commission makes a credit or refund under this section within a 90-day period after the day on which a licensed person submits an application to the commission for the credit or refund, interest may not be added to the amount of credit or refund.
 - (b) If the commission makes a credit or refund under this section more than 90 days after the day on which a licensed person submits an application to the commission for the credit or refund, interest shall be added to the amount of credit or refund as provided in Section 59-1-402.
- (6)
- (a) The commission may create a form for:
 - (i) a licensed person to:
 - (A) submit a claim for a credit or refund; or
 - (B) verify to the commission that a cigarette or tobacco product has been:
 - (I) returned to the manufacturer of the cigarette or tobacco product; or
 - (II) destroyed; or
 - (ii) processing a claim for a credit or refund for payment.
 - (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining a person similar to a person described in Subsections (1)(b)(i) through (v).

Amended by Chapter 382, 2008 General Session

59-14-410 Action for collection of tax -- Action for refund or credit of tax.

- (1)
- (a) Except as provided in Subsections (2) through (5), the commission shall assess a tax under this chapter within three years after a taxpayer files a return.
 - (b) Except as provided in Subsections (2) through (5), if the commission does not assess a tax under this chapter within the three-year period provided in Subsection (1)(a), the commission may not commence a proceeding to collect the tax.
- (2) The commission may assess a tax at any time if a taxpayer:
- (a) files a false or fraudulent return with intent to evade; or
 - (b) does not file a return.
- (3) The commission may extend the period to make an assessment or to commence a proceeding to collect the tax under this chapter if:
- (a) the three-year period under Subsection (1) has not expired; and
 - (b) the commission and the taxpayer sign a written agreement:
 - (i) authorizing the extension; and
 - (ii) providing for the length of the extension.
- (4) If the commission delays an audit at the request of a taxpayer, the commission may make an assessment as provided in Subsection (5) if:
- (a) the taxpayer subsequently refuses to agree to an extension request by the commission; and
 - (b) the three-year period under Subsection (1) expires before the commission completes the audit.
- (5) An assessment under Subsection (4) shall be:
- (a) for the time period for which the commission could not make an assessment because of the expiration of the three-year period; and
 - (b) in an amount equal to the difference between:
 - (i) the commission's estimate of the amount of tax the taxpayer would have been assessed for the time period described in Subsection (5)(a); and

- (ii) the amount of tax the taxpayer actually paid for the time period described in Subsection (5)(a).
- (6)
 - (a) Except as provided in Subsection (6)(b), the commission may not make a credit or refund unless the taxpayer files a claim with the commission within three years of the date of overpayment.
 - (b) The commission shall extend the period for a taxpayer to file a claim under Subsection (6)(a) if:
 - (i) the three-year period under Subsection (6)(a) has not expired; and
 - (ii) the commission and the taxpayer sign a written agreement:
 - (A) authorizing the extension; and
 - (B) providing for the length of the extension.

Enacted by Chapter 6, 2007 General Session